

**ENTERED**

October 13, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

UNITED STATES OF AMERICA, §  
§  
Plaintiff, §  
§  
VS. §  
§  
2.433 ACRES OF LAND, more or less, in § CIVIL ACTION NO. 7:20-cv-00084  
HIDALGO COUNTY, TEXAS; TAX §  
RANCH, LLC; and HIDALGO COUNTY, §  
TEXAS, §  
§  
Defendants. §

**FIRST AMENDED SCHEDULING ORDER**

The Court now considers the parties’ “Agreed Motion to Extend Time”<sup>1</sup> and “Amended Agreed Motion to Extend Time.”<sup>2</sup> The amended agreed motion was filed later in time and the Court interprets it to supersede the earlier motion.<sup>3</sup> Accordingly, the Court **DENIES AS MOOT** the “Agreed Motion to Extend Time.”<sup>4</sup>

The instant amended motion seeks to extend deadlines to allow time for Defendant’s appraiser to complete his appraisal.<sup>5</sup> Federal Rule of Civil Procedure 16(b)(4) requires good cause to modify a scheduling order.<sup>6</sup> The Court finds good cause in the parties’ agreement and the need to allow time for Defendant’s appraiser to offer his opinion on the value of the property at issue in this eminent domain case. Accordingly, the Court **GRANTS** the parties’ amended

---

<sup>1</sup> Dkt. No. 12.

<sup>2</sup> Dkt. No. 13.

<sup>3</sup> Compare Dkt. No. 12 at 1, ¶ 5 (requesting a 60-day extension), with Dkt. No. 13 at 1, ¶ 5 (requesting a 90-day extension). Both motions, however, request the same deadlines.

<sup>4</sup> Dkt. No. 12.

<sup>5</sup> Dkt. No. 13 at 2, ¶ 6.

<sup>6</sup> FED. R. CIV. P. 16(b)(4) (“A schedule may be modified only for good cause and with the judge’s consent.”).

agreed motion<sup>7</sup> and enters this case-specific scheduling order which controls disposition of this action until further order of the Court. The following actions shall be completed by the dates indicated:

PRETRIAL EVENTS	DEADLINES
Deadline for Defendants to designate expert witnesses and provide expert reports in accordance with Federal Rule of Civil Procedure 26(a)(2).	January 7, 2021
Deadline for Plaintiff to designate expert witnesses and provide expert reports in accordance with Federal Rule of Civil Procedure 26(a)(2).	February 8, 2021
Discovery deadline.	April 8, 2021
Deadline to notify the Court whether the parties (1) consent to the Court deciding the issue of just compensation upon briefs and evidence submitted therewith or (2) request an evidentiary hearing on the issue of just compensation.	April 15, 2021
<u>N.B.</u> <sup>8</sup> : Parties may request a jury trial or a special commission <sup>9</sup> or consent to a bench trial. There is no right to jury trial. <sup>10</sup>	
Deadline to file briefs and submit evidence (or anticipated evidence if an evidentiary hearing is requested) on the issue of just compensation.	
<u>N.B.</u> : The Court will conduct a preliminary screening of the briefs and anticipated evidence submitted to determine whether the	May 20, 2021

<sup>7</sup> Dkt. No. 13.

<sup>8</sup> See N.B., BLACK'S LAW DICTIONARY (11th ed. 2019) ("Note well; take notice — used in documents to call attention to something important.").

<sup>9</sup> FED. R. CIV. P. 71.1(h).

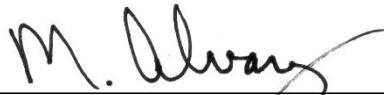
<sup>10</sup> *Ga. Power Co. v. 138.30 Acres of Land*, 596 F.2d 644, 647 (5th Cir. 1979), *aff'd sub nom. Ga. Power Co. v. Sanders*, 617 F.2d 1112, 1113 (5th Cir. 1980) (en banc).

evidence is sufficient to order a jury trial if one is requested. <sup>11</sup>	
Deadline to file all pretrial motions, including any dispositive motions, except motions in limine which shall be filed with the Joint Pretrial Order.	June 21, 2021
Deadline to file joint pretrial order, motions in limine, and proposed jury instructions (or proposed findings of fact & conclusions of law). <sup>12</sup>	August 19, 2021
Final pretrial conference and trial scheduling, unless the parties elected for the Court to decide the issue of just compensation upon the briefs and evidence submitted therewith, in which case the conference is automatically cancelled.	September 27, 2021, at 9:00 a.m.

This scheduling order supersedes any earlier scheduling order, is binding on all parties, and shall not be modified except by leave of Court upon showing of good cause.<sup>13</sup> All other deadlines not specifically set out in this scheduling order will be governed by the Federal Rules of Civil Procedure and this Court's Local Rules.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 13th day of October 2020.



\_\_\_\_\_  
 Micaela Alvarez  
 United States District Judge

<sup>11</sup> See *United States v. 320.0 Acres of Land, More or Less in Monroe Cty.*, 605 F.2d 762, 819–20 (5th Cir. 1979); *United States v. 33.92356 Acres of Land, More or Less, in Vega Baja*, 585 F.3d 1, 8 (1st Cir. 2009) (citing *320.0 Acres*, 605 F.2d at 815) (“While the jury tries issues of valuation, the trial judge must screen the proffered best and highest uses . . .”).

<sup>12</sup> The Joint Pretrial Order must be in accordance with Appendix B of the Local Rules for the Southern District of Texas and must include the disclosures required by Federal Rule of Civil Procedure 26(a)(3).

<sup>13</sup> See FED. R. CIV. P. 16(b)(4); 6A ARTHUR R. MILLER, MARY KAY KANE & A. BENJAMIN SPENCER, FEDERAL PRACTICE AND PROCEDURE § 1522.2 (3d ed. 1998 & Supp. Apr. 2020).